

~~Administrative - Internal Use Only~~S.3393
File 74-0991

13 May 1974

MEMORANDUM FOR:

O/DDI

STATINTL

SUBJECT : S.3393--Government Secrecy Control Act
and S.3399--Amendments to the Freedom
of Information Act

1. S.3393 and S.3399 have a major impact on the way this Agency operates in classifying and handling classified information. Both bills introduce Congressional intervention into the classification and declassification process, create legislative and/or executive organizations to review and monitor all classified matter and require dissemination of classified information to Congress as requested. In their present form, they jeopardize existing Agency classification policy and open up to the Congress and public Agency classified documents.

S.3393

2. S.3393 requires the registration of all classified documents or matter within 20 days of origination or receipt within the United States. The only materials excluded from these provisions are those that are destroyed within 60 days after issuance, i.e., working papers or drafts. Any classified material not registered cannot be considered classified and may not be withheld from the public. Material classified before enactment which is over 10 years old must be given to the public unless its registered and material which is less than 10 years old at enactment may be withheld from the public for only 4 years unless it is registered. Registration consists of filing on a monthly basis bibliographic, classification, and dissemination data on each new classified item with the Federal Registrar (a new Federal Officer replacing the Interagency Classification Review Committee). The Registrar is authorized to permit agencies to use aggregate entries for those classified items that

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are voluminous in quantity or similar in content and to use codes to protect the names of the classifiers. Under this provision, CIA reporting could be handled by a limited number of entries such as intelligence information reports, intelligence memorandums, intelligence reports, interoffice correspondence, etc. The bill, however, authorizes Congress to overrule the Registrar's decisions on this recording and to ask for more specific details on any classified item.

3. The definition of what constitutes classified material is open-ended and includes any piece of classified item originating in the Agency and all present and former Agency classified materials. The amount of record-keeping required to register on a monthly basis all new classified, as well as, all previously classified material is staggering and expensive (it could easily reach \$3 million and at least 200 slots annually). I doubt if Congress would accept aggregate entries for all Agency material and even if they do so, it would require considerable manpower to review and register old materials to protect them from ultimate declassification. CRS was able to absorb the EO 11652 data index (a similar register) requirement because we could adapt our computer-based document retrieval system to meet the requirement and because items to be controlled were limited to finished intelligence. The present CRS system could not absorb "all" CIA classified matter. A new and more expensive registration system would have to be introduced to meet the increased coverage and timeliness (within 20 days) requirements of this bill.

4. The final authority for declassification and release to the public is assigned to a joint committee of Congress. A Congressional committee will have a difficult time in making the proper classification decision. Senator Muskie admits that decisions on requiring or dropping secrecy are "matters of individual judgment where precise standards

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cannot be automatically applied to every case." Prior to the Congressional review, the Federal Registrar has authority to approve or disapprove declassification decisions made by individual agencies. These procedures are not only time consuming and bureaucratic but they usurp the Director's final authority to protect intelligence sources and methods.

S.3399

5. S.3399 is similar in purpose to S.3393. The ultimate classification and declassification authority, however, is vested in a full-time nine-member Classification Review Commission. This Commission has the authority to overrule individual agency decisions on downgrading and declassification, to investigate failures of agencies to comply with requests for information and to furnish any classification information requested by Congress, a member of Congress, or the Comptroller-General. The Commission is authorized to use judicial processes to ensure compliance. The Agency is not exempt from these provisions. The Director's authority to protect intelligence sources and methods could be seriously eroded by this process.

6. Documents that pertain to cryptographic systems, that disclose intelligence sources or methods or that disclose a defense plan, project or other specific defense matter are exempt from the phased automatic downgrading provisions. Classification of such documents, however, must be reviewed by the Commission and the Commission can authorize or reject classification extensions for an additional two years and beyond that time period if so requested by the President. If such extensions of these types of documents are rejected, they become subject to the phased automatic downgrading schedules within the bill. This is a time consuming, bureaucratic procedure to follow to ensure that Agency classified materials are protected.

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7. The bill also omits the phrase "foreign policy" from the standard security classification definition "damage to the national defense of the United States."

8. A provision in the bill could impact on CRS' biographic responsibility. A provision states that classification "to avoid embarrassment to any individual is prohibited." Many of the CRS biographic reports are classified because of US Official assessments of foreign officials' capabilities and personal lives.


9. The bill also provides that any classified documents provided to the US by a foreign government or international organization must be provided to Congress upon written request of a Congressional Committee. This would jeopardize existing liaison relations with foreign government intelligence activities.

Conclusion


10. I recommend careful review of both bills by the Agency. Their intent is to correct classification abuses but in so doing, they could seriously impair the intelligence processes of the Federal Government.


for H. C. EISENBEISS
Director, Central Reference Service

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MEMORANDUM FOR: Assistant Legislative Counsel

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Attached are comments prepared
by CRS on S. 3393 and S. 3399 that you
suggested via 

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Attachment

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(DATE)

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

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